

Employment of Minors

To the Licensee: This handout explains legal age for employees who sell or serve alcohol. The legal age differs based upon the type of business where employed, the employee's duties, and where those duties are performed.

Definitions: The term "On-sale" premises means businesses such as bars, restaurants and clubs, where alcohol is sold for consumption on the premises (e.g., Type 40, 41, 42, 47, 48, 49, 59 and 61 license). The term "Off-sale" means package stores where alcohol is sold for consumption off the premises (Type 20 and 21 license). The term "Minor" means a person under 21 years of age.

25663(a). Employment of minors (on-sale premises).

Every person who employs or uses the services of any person under the age of 21 years in or on that portion of any premises, during business hours, which are primarily designed and used for the sale and service of alcoholic beverages for consumption on the premises is guilty of a misdemeanor.

In other words:

You may not employ a person under age 21 on the portion of any premises which is primarily designed and used for the sale and service of alcohol for consumption on the premises.

Restaurants: In a bona fide public eating place, persons age 18 or older may serve alcohol in an area primarily designed and used for the sale and service of food for consumption on the premises as an incidental part of their overall duties. Bartenders and cocktail waitresses must be 21.

Concession Stands: A person who is at least age 18 but not yet 21 may serve alcohol, as an incidental part of his or her duties, at a fixed concession stand that sells food products, soft drinks, and alcohol.

Pizza Parlors: A person under age 21 may not serve alcohol while working behind a fixed counter where only soft drinks, alcohol, and other beverages are dispensed and food items are served at another counter within the premises.

Source: Instructions, Interpretations and Procedures

25663(b). Employment of minors (off-sale).

Any off-sale licensee who employs or uses the services of any person under the age of 18 years for the sale of alcoholic beverages shall be subject to suspension or revocation of his or her license, except that a person under the age of 18 years may be employed or used for those purposes if that person is under the continuous supervision of a person 21 years of age or older.

In other words:

Persons age 18 and older may sell alcohol unsupervised. Persons age 17 and younger may sell alcohol if under the continuous supervision of a person age 21 or older.

"Continuous supervision" means that an adult person must be present on the premises to provide direction and assistance, if needed.

Source: Instructions, Interpretations and Procedures

25667. Service by minors (on-sale premises).

Nothing in this division shall be construed to prohibit the service of any alcoholic beverage by any person between 18 and 21 years of age in any bona fide eating place as defined in Section 23038 and 23038.1, which is licensed for the on-sale of alcoholic beverages, where such person is not acting in the capacity of a bartender and the service occurs in an area primarily designed and used for the sale and service of food for consumption on the premises.

Exception to above: Minor musicians (see reverse)

25663.5. Minor musicians. (on-sale premises)

Notwithstanding Section 25663 or any other provision of law, persons 18 to 21 years of age may be employed as musicians, for entertainment purposes only, during business hours on premises which are primarily designed and used for the sale and service of alcoholic beverages for consumption on the premises, if live acts, demonstrations, or exhibitions which involve the exposure of the private parts or buttocks of any participant or the breasts of any female participant are not allowed on such premises. However, the area of such employment shall be limited to a portion of the premises that is restricted to use exclusively of musicians or entertainers in the performance of their functions, and no alcoholic beverages shall be sold, served, consumed, or taken into that area.

In other words:

Musicians who are at least age 18 but not yet 21 can be employed in all types of on-sale premises, only if the following conditions exist:

- (a) There is no topless or nude entertainment, either live or on film;
- (b) The area of employment is restricted for the exclusive use of musicians and entertainers;
- (c) No alcohol is sold, served, or consumed in the restricted entertainment area;
- (d) The restricted area is readily identifiable. It must be a room, a stage, or an area bounded by partitions or other barriers at least 30 inches high;
- (e) While performing, the musician must remain in the restricted area.

At a bar or tavern (license Type 42, 48, or 61) the minor musician must remain in the restricted area at all times, except when:

- (a) Entering or leaving the premises,
- (b) Setting up equipment,
- (c) Visiting restrooms,
- (d) Resting or changing clothing in a room which is not used for sale, service, or consumption of alcohol by the public,
- (e) Auditioning when the place is not open for business.

An entertainer is a musician if the bulk of his or her performance involves making music with an instrument or his or her voice.

Source: Instructions, Interpretations and Procedures

Section 23790.5(d). Concurrent sales.

. . . establishments engaged in the concurrent sale of motor vehicle fuel with beer and wine for off-premises consumption shall abide by the following conditions:

. . . (6) Employees on duty between the hours of 10 p.m. and 2 a.m. who sell beer or wine shall be at least 21 years of age to sell beer and wine. . . .

Section 25617. Punishment for misdemeanor.

Every person convicted for a violation of any of the provisions of this division for which another penalty or punishment is not specifically provided for in this division is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

Source: California Business and Professions Code